

**PROPOSED FINAL VERSION**  
**RULE 223-2**  
**Proposed Effective Date: February 15, 2001**

**R223. Community and Economic Development, Community Development, State Library.**

**R223-2. Public Library Online Access for Eligibility to Receive Public Funds.**

**R223-2-1. Authority and Policy.**

(1) The Utah State Library Division hereby adopts this rule in accordance with Sections 63-46a-1 et seq., and 9-7-213 and 9-7-215 for the purpose of defining standards for public library online access policies.

(2) For a public library that offers public access to the Internet to retain eligibility to receive state funds, the local Library Board shall adopt and enforce a Policy that restricts access by minors to Internet or online sites containing obscene material and that meets the Public Library Online Access Policy Standard defined by this rule.

**R223-2-2. Definitions.**

In addition to the terms defined in Section 9-7-101,

(1) "Library Board" means the library board of directors appointed locally (as authorized by Sections 9-7-402 or 9-7-502) and which exercises general policy authority for library services within a city or county of the state of Utah, regardless of the title by which it is known locally.

(2) "Minor" means any individual younger than 18 years of age.

(3) "Obscene" means materials meeting the standard established by the U.S. Supreme Court in *Miller v. California*, 413 U.S. 15 (1973) whereby an affirmative answer is required to each of the three following questions:

(a) whether "the average person applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest;

(b) whether the work depicts or describes, in a patently offensive way, sexual content specifically defined by the applicable state law; and

(c) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

(4) "Policy" means the Public Library Online Access Policy adopted by a Library Board to meet the requirements of this rule and Sections 9-7-213 and 9-7-215.

**R-223-2-3. Standards.**

(1) Process Standard.

(a) Each Library's Policy shall be developed under the direction of the Library Board, adopted in an open meeting, and have an effective date. The Library Board shall review such a policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.

(b) Notice of the availability of the Policy shall be posted in a conspicuous place within the library for all patrons to observe. The Library Board may issue any other public notice it deems appropriate to inform the community about the Policy.

(2) Content Standard.

(a) The Policy shall state that it restricts access by minors to Internet or online sites that contain obscene material and shall state how the Library Board intends to meet the requirements of Section 9-7-215.

(b) The Policy shall inform patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been established and are available at the library.

(c) The Policy shall inform patrons that procedures to handle complaints about the Policy or its enforcement have been established and are available at the library.

**R223-2-4. Reporting.**

(1) Each Library Board shall submit a copy of its Policy to the Director of the State Library Division no later than July 1, 2001, accompanied by a letter signed by the Library Director and Library Board Chair affirming that the Policy was adopted in an open meeting, that notice of the Policy's availability has been posted in a conspicuous place within the library, and that the Policy is intended to meet the provisions of this rule and Sections 9-7-213 and 9-7-215.

(2) All documents submitted shall be classified as public records in accordance with the Government Records Access and Management Act (Title 63, Chapter 2).

**R223-2-5. State Library Administrative Procedures.**

(1) The State Library Division shall review all public library policies received by July 1, 2001, for compliance with this rule.

(2) The Director of the State Library Division shall issue notices of compliance or non-compliance within 30 days following the receipt of the policy. Any library not submitting a policy shall receive a notice of non-compliance.

(3) Appeals to the notice of non-compliance shall be submitted in writing, within 30 days of the date of the notice, to the Executive Director of the Department of Community and Economic Development, who shall respond within 30 days.

(4) A public library receiving a notice of non-compliance shall not be eligible to receive state funds until the condition(s) upon which the notice of non-compliance is based are corrected and a notice of compliance is received.

(5) A public library in compliance shall be eligible to receive state funds in state fiscal year 2002 and subsequent years, as long as a current Policy is resubmitted to the State Library Division no later than July 1, 2004, and every three years thereafter.

(6) A public library otherwise in compliance with the provisions of this rule shall not lose eligibility to receive state funds unless a complaint submitted to the Library Board under its Policy results in a ruling from a court of law that a minor has accessed obscene material expressly due to insufficient enforcement of the Policy by the local library.